HUMAN EVENTS

Vol. XV, No. 29 Monday, July 21, 1958 Washington, D. C.

News Section *Printed in Two Sections*

MIDEAST: *Joint Chiefs spur action*_____(page 1)

ADAMS: *Seaton next in line?*_____(page 2)

HIGH COURT: *Congress strikes back*_____(page 2)

*Rating the Justices*_____(page 3)

ATOMS: *Clergymen denounce appeasement*___(page 3)

Decisive Day: Last Monday, with the President's decision to send troops into Lebanon, the die was cast.

But was it Ike's decision? Those who participated in last week's solemn conferences, morning and afternoon, say that the "strong man" who carried the day for the Lebanon landing was the Chairman of the Joint Chiefs of Staff, Air Force General Twining.

A capsule version of Twining's argument, as relayed by inside sources, runs as follows: the Iraq coup resulted from failure to heed Twining's advice of three weeks ago to go into Lebanon immediately. "Face" is important in the Middle East, and adventurers among the military in Baghdad took it as a sign that the US intended to abandon the area—then acted to get on the Nasser-Moscow bandwagon.

Twining feared a chain reaction, if we let this Iraq coup go unchallenged, among other, hitherto pro-Western, nations—Saudi Arabia, Pakistan, Iran. Not the least of his worries was Turkey.

Our intelligence has warned of the possibility of a military coup in Turkey. The Turks have become disgusted with the US failure to provide them with military and economic aid, while we generously provision the Communist countries of Poland and Yugoslavia. Although the American Congress voted Turkey $300 million in economic aid a year ago, the International Cooperation Administration, dominated by pro-Tito thinking, did not transfer one dollar of these funds to Turkey.

If the Middle East should go into the Moscow orbit, oil supplies on which Western Europe depends would be threatened, and Britain and France would inevitably be swayed by the Moscow axis, weakening the US position against Soviet Russia. Such were the military's arguments.

Finally, the Joint Chiefs emphasized their fear that continuation of "soft" policies and failure to act against Nasser-Moscow coups would, by eliminating pro-Western nations, imperil our ring of air and missile bases which, by "deterrence," protect the cities and soil of the United States. Twining gave it as his considered opinion that Soviet Russia would not—as a result of US intervention—risk plunging into World War III.

Fundamentally, the course chosen on "decisive Monday" was dictated by military strategy, laid down by the Air Force, Army and Navy.

● Behind the closed doors of the Monday afternoon conference with congressional leaders, party lines split. Senator Theodore Green (D.-R.I.), Chairman of the Foreign Relations Committee, joined with Senator William F. Knowland (R.-Calif.), Senator Styles Bridges (R.-N.H.) and Secretary Dulles to support Twining's presentation.

Members say that the President sat "grey and drawn," reluctant to make a decision. Opposition to the military argument found expression principally from "liberal" Senator Mike Mansfield (D.-Mont.). Significant of the turn of feeling among the legislative leaders was no little agreement that we should never have prevented the British-French-Israeli combine from overthrowing Nasser in November, 1956.

● Criticism of the Central Intelligence Agency (CIA), for failing to detect and thwart the Baghdad coup, ran high among the legislators. Some of the Senators were amazed to learn that the CIA was looking for the wrong coup in the wrong place in the week preceding the Baghdad affair. (According to reliable information conveyed to HUMAN EVENTS, CIA was warning of a pro-Nasser coup in Jordan's capital, to assassinate young King Hussein.)

Grumbling against Secretary Dulles also arose, with professional Democratic critics demanding a review of his policies. Conservative Republicans, however, thought that any probe should be directed against the New Dealish bureaucracy of the State Department (which Dulles, despite GOP urgings, has never cleaned out).

Much of the impetus of the pro-Nasser gestures from the State Department, it is claimed, comes from the old Truman-Acheson bureaucracy, which has a deliberate policy of skimping our friends (Turkey in the Middle East and Korea and Formosa in the Far East) while ladling out aid to Tito and Gomulka, not to mention Nehru of India. Their consideration, GOP critics say, is to keep the Arab bloc "on our side" by massive give-away programs.

As one Republican legislator put it, "that's an enormous rathole for foreign aid which seems more important to them than Europe or places like South Korea and Formosa." Senatorial critics blame C. Douglas Dillon, Deputy Under Secretary of State for Economic Affairs, who holds sway over ICA policy, for this approach. If the Senate probe on the Middle East gets under way, more may be heard of this angle.

Meanwhile, "liberal" Democrats seek to increase Government spending, seizing the Middle East crisis as just one more opportunity to infiltrate more socialism into the economic system.

Published weekly at 408 First Street, SE, Washington 3, D. C.

• Copyright 1958 by HUMAN EVENTS, INC.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

● Fears of many members of Congress that the venture into Lebanon was following too closely the ill-starred experience in Korea eight years ago found expression in the remarks of Senator Jenner (R.-Ind.), when he reminded the Senate that "we have one tragic experience with letting our men serve under United Nations command, only to have victory, won with their blood, snatched from them by the United Nations."

The Indiana Senator thereupon introduced a resolution providing that the President of the United States may not transfer any member of our armed forces to any such international jurisdiction, and stating that this limitation is binding regardless of indirect amendments of our Constitution by means of treaty law. (This latter safeguard was one of the objectives of the Bricker Amendment.)

● Intelligence sources in Washington are warily watching for a Soviet move against Iran, possibly in Azerbaijan province. Whether this would be directly or by "indirect means," no one knows at present. These sources say such a thrust seems to be the indicated countermeasure against US and British actions in the Middle East. Failure to make such a move will be interpreted as an evidence of Soviet caution.

Adams Successor? Opinion divides, among Republican members of Congress, as to the acceptability of various Administration officials who have been mentioned as likely successors to Sherman Adams, should Adams resign his post as Presidential Assistant. One is White House Assistant General Wilton Persons; another, Secretary of the Interior Fred Seaton.

Conservatives favor Persons, who has handled congressional contacts smoothly and amiably. Modern Republicans favor Seaton. Seaton has the advantages of looks, youth and charm; and even conservatives admit that he would handle matters on Capitol Hill with better grace and ability than has Adams. Seaton, however, has a thought-provoking record which pops up in cloakroom arguments. After the death of Senator Kenneth Wherry (R.-Nebr.), the Governor of Nebraska appointed Seaton to serve the remainder of Wherry's term.

The young Nebraska publisher sat in the Senate during the 1952 term and made a record so "liberal" that the Americans for Democratic Action (ADA), the principal socialistic force in America, rated him its favorite Senator. He voted the ADA way on eight out of nine issues (in contrast to his GOP colleague, the late Senator Hugh Butler, whom the ADA rated "wrong" on all issues).

At the time, September 11, 1952, the Chicago *Tribune* commented editorially: "It is hardly necessary to ask whether Seaton or Butler represents the outlook of Nebraska Republicans. Seaton last went before the voters in 1948, when he was defeated for the legislature after serving two terms. He was appointed to fill the vacancy in the Senate created by the death of Senator Wherry. He made no attempt in the primary this summer to win election to the Senate on his own. Governor Peterson, who appointed him, was soundly drubbed when he tried to capture the Senate nomination from Senator Butler. . . . Seaton is now in charge of Eisenhower headquarters in Washington. Seaton, the pet Republican Senator of the ADA, is one of the front men in Eisenhower's show."

Concern is apparent among business circles. Their representatives in Washington report the fear that Seaton, if installed in the seat of power in the White House, may turn the Administration's policy on electric power to the left. Since he has been Secretary of the Interior he has gone along with Ike's "partnership" policy, which has prevented the launching of big Federal hydroelectric dams in the manner of Roosevelt and Truman. Those who have watched Seaton closely, however, are apprehensive that he might, if he went into the White House, swing the President to the policy of Federalized electric power.

● *In the last 48 hours, the Capitol Hill grapevine has it that Seaton is already performing for the White House certain jobs previously handled by Adams.*

Not Merely Gossip: There has arisen a little flurry of talk, in GOP circles, that the President might resign if Adams left. Investigation by HUMAN EVENTS brings the following report: Cliff Roberts, the President's golfing partner and a Wall Street broker, wrote Adams, strongly criticizing him for bringing discredit to the President and requesting that he resign. This much has appeared in the press. What hasn't appeared is that Roberts then talked with the President about his letter, and the President reacted violently in favor of Adams. Ike is reported to have said: "If Sherman goes, I go."

This news has got around in some circles, but responsible White House sources say that Ike talked only in a fit of anger and did not mean what he said. Discussion of the matter, however, goes on among Republicans.

● In Democratic cloakrooms, the word is passed that former President Truman, on his return to the US last week, told high-up Democrats he intends to devote the next two years to a campaign to prevent the nomination of Adlai Stevenson in 1960.

High Court: Capitol Hill is jubilant over the smashing victory scored by conservative forces last week, as a coalition of Republicans and Southern Democrats powered through a bill nullifying the damage wrought by the Supreme Court in its 1956 *Nelson* decision, and stating in unmistakable language the intent of Congress to preserve states' rights against the "pre-emptive" Federal encroachments favored by the Warren Court and other leftists.

The conservative coalition turned back repeated attempts by left-wing legislators to tack crippling amendments to the bill. The final strong version that went through, a combination of bills offered by Congressman Howard Smith (D.-Va.) and Congressman Francis Walter (D.-Pa.), passed by the thumping margin of 241-155. Deemed significant was the heavy Republican vote in favor of the bill (138 of the votes were from GOP Congressmen), in spite of Administration opposition to it. The Republican insurgents were led by conservative Congressman Edgar Hiestand (Calif.),* who says that the

* Hiestand is a long-time friend and subscriber of HUMAN EVENTS. He writes: "I can thank HUMAN EVENTS for my being in Congress today. I received a gift subscription to HUMAN EVENTS when it was started and have been a subscriber ever since."

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

states' rights bill "is the most important piece of legislation to come out of this session to date," and who predicts that it will pass the Senate.

The conservative victory confirmed the HUMAN EVENTS forecast of June 23, 1958, which reported that "those who count heads in the House say the Smith bill has the votes to pass," and which pointed up the opportunity for constituents to tell their legislators where they stood on the matter of curbing the Court.

Congressman William M. Tuck (D.-Va.), in a statement to HUMAN EVENTS, stressed the historic significance of the bill's passage. "This is the first successful legislative move," he said, "to offset the recent disturbing pattern of 'liberal' decisions handed down by the Supreme Court."

● Another significant development concerning the High Court was a Senate speech delivered by Senator James O. Eastland (D.-Miss.), July 10. Scoring a recent group of the Court's "soft" decisions on the US Communist party, Eastland inserted into the *Record* a tabulation of "security" votes cast by the Justices who make up the Warren Court.

On the basis of Eastland's tabulation, Justice Hugo Black came off with the worst record of anti-anti-communism—with a 71-0 record of votes against internal security. The best record possessed by any sitting Justice is that of Tom Clark, whose record shows 33 votes in favor of security safeguards, 18 against—far from a good record, but better than the others.

Here is the tabulation:

	Against Security	*For Security*	*Pro-Security Percentage*
Black	71	0	0
Douglas	66	3	.04
Warren	36	3	.08
Brennan	18	2	.10
Frankfurter	56	16	.22
Harlan	20	14	.41
Burton	32	37	.54
Whittaker	4	7	.64
Clark	18	33	.65

"Perhaps we cannot say what the Court is trying to do," declared Eastland, but "we can see what it is doing: it is moving step by step, decision by decision, toward establishing the Communist conspiracy in the United States as a legal political entity."

Nuclear Weapons: Opponents of the campaign to divest America of its nuclear arsenal hail a series of pronouncements by clergymen of the Western world, rebuking the pacifism that has sometimes been preached under the guise of Christian teaching. (For example, the recent "message" adopted by the Presbyterian Church of the USA, which proclaimed that "we today must coexist with Communist nations. In this nuclear age, the only alternative to coexistence is coextinction."*)

Running counter to clerical professions of pacifism and willingness to compromise with Red tyranny was the declaration of Anglican Bishop C. M. Chavasse, who declared that World War III would be preferable to Communist slavery. In an evil world, he said, "war can be the lesser of two evils."

In America, Father John Courtney Murray similarly went on record in favor of stern opposition to Communist aggression. Father Murray, rejecting "coexistence," recommended a program of "continuous engagement at every point, on all levels of action by both tactical and strategic moves." In a debate with left-wing historian Walter Millis (published by the Fund for the Republic last week under the title, *Foreign Policy and the Free Society*), the well-known Catholic theologian also declared his conviction that "force and the prospects of success by its use are the determinants of Soviet action."

This point, he said, "would suggest that we put an end, as quietly as possible, to the Wilsonian era of diplomacy with its exaggerated trust in world assemblies and in spectacular international conferences."

Attracting even more attention than the statements of Chavasse and Murray were the remarks of Dr. Geoffrey Fisher, the Archbishop of Canterbury, the leading Protestant figure of England. Writing in a symposium on communism and nuclear weapons, Dr. Fisher rebuked pacifist arguments that Communist slavery was preferable to nuclear war. "Policy," he said, "should not be based simply on fear of pain. . . . I cannot establish any policy merely on whether or not it will save the human race from a period of suffering or from extinction."

Shortly before the storm that broke over this statement, the Archbishop had formulated another cogent declaration on the morality of nuclear weapons. In a diocesan letter, he said: "It is wrong to say that they are of their nature evil. Like any other thing, their value for good or evil depends entirely on the use to which men put them. It is the Christian duty of our statesmen to defend this country and, if in the discharge of that duty they believe that the possession of this deterrent is necessary, it is their duty to act on that belief."

US Captives: Acclaimed in the Capital last week were the words of House Democratic Leader John W. McCormack (Mass.), as he called for vigorous action to secure the freedom of American personnel imprisoned abroad. "The dignity of our nation is involved," McCormack said, "because they're American citizens."

The Democratic leader added: "If the Soviet Union does not bring about their release within a reasonable period, I think our country would be justified in strongly indicating that there would be a severance of diplomatic relations."

"We all know that East Germany is controlled by the Kremlin," McCormack continued, "so their argument that East Germany is a sovereign nation is fallacious."

McCormack's words are viewed here as an indication that Americans, of whatever party, are at the end of their patience with US appeasement of communism.

Primaries: Washingtonians are keeping a weather eye on two impending primaries, in the "just-inside-the-border" Southern states of Tennessee and Texas, which pit conservative Democrats against "liberal," pro-civil rights incumbents. In Texas, former Senator William Blakley,

* This statement was vigorously attacked by Presbyterian laymen and a minister from Pittsburgh. In a telegram to President Eisenhower and Secretary of State Dulles, the group said:

"We of the Presbyterian Church are abjectly ashamed of our General Assembly's recent pronouncement demanding coexistence with Communist Russia when the Church's sole message should be a call for obedience to God's word as the only hope for mankind."

"Hypocrisy should be abhorrent to Christians," continued the Presbyterian group, "when a glaring example is church leaders calling for any compromise with the militant Godless of communism."

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a protégé of ex-Governor Allan Shivers, is running for the Democratic Senatorial nomination against Ralph Yarborough, a far-left Democrat and long-time enemy of Shivers forces in the Lone Star State. Yarborough voted last year for the "civil rights" bill, a fact which is being thrown up at him in the developing campaign.

In Tennessee, former Governor Prentice Cooper is waging a fighting campaign against "liberal" incumbent Senator Albert Gore.

HUMAN EVENTS sources in touch with the campaign say that Gore, who had considered his renomination safely in the bag, is now in deep trouble (a fact which does not chafe Gore's Senatorial colleagues, who confide a dislike for Tennessee's junior Senator even greater than that they harbor for Estes Kefauver). Cooper's campaign has been based squarely on the issues of states' rights, segregation and foreign aid. He has scathed Gore as a "global, one-world do-gooder," and blasted his stand on "civil rights" issues. Gore, says Cooper, "has consistently voted with the NAACP, and with the pink-tinged Americans for Democratic Action."

Modern GOP: Further notes on the demise of Modern Republicanism—and bitter ones for GOP candidates who must campaign for their political lives this fall—include the story of difficulties encountered by Republican fund-raisers as they attempt to build a war chest for the impending battle for Congress.

The money-collecting campaign is lagging badly—principally because the businessmen who are the GOP's traditional source of funds have had their fill of "modernism" in the White House, and have sworn off giving it any financial aid.

In a front-page story last week, *The Wall Street Journal* quoted Charles Thomas, recently chairman of the Republican Finance Committee: "The greatest danger [to the fund drive] is those Republicans who say 'We do not see now any fundamental difference between the Republican party and the Democratic party.' "

And a GOP Congressman is quoted as saying: "There is a large and growing group of private contributors who just don't like the way the Administration has adopted the 'liberal' approach. They feel Eisenhower has drifted away from the type of conservative Administration he promised when he first took over from Truman."

Labor Front: Revealing the methods by which Walter Reuther's "Committee on Political Education" operates is a story emanating from Idaho, where Democratic politicos are busily in search of a candidate to oppose conservative Republican Congressman Hamer Budge. The story, say Washingtonians, brings into the open some aspects of COPE procedure which have hitherto been kept away from the public gaze.

John Corlett, writing in the Boise, Idaho, *Statesman* for July 2, 1958, disclosed that the Idaho Federation of Labor had asked "Glenn Dyer of Blackfoot, former business representative of Pocatello Local 648, of the Plumbers and Fitters Union, to withdraw as a candidate for the Democratic nomination as Second District Congressman."

Reason: Dyer "had not conformed with the constitution of COPE by asking the proper committee of COPE whether he should seek the nomination in the first place."

Dyer charged that he was summoned to a meeting of the labor officials in Boise, and told that COPE would finance his campaign if he would go along with them "all the way." (Union officials denied that any deal had been offered Dyer.) Dyer, who has stayed in the race, remarks on his campaign: "I may not win, but believe me I will sleep good."

Scandals: Senator Homer Capehart (R.-Ind.), appearing last week on Ruth Hagy's TV interview, "College News Conference," called attention to the contrast between the records of the Republican and Democratic administrations in the matter of corruption.

"I was chairman of the so-called FHA scandal committee in 1954," Capehart recalled, "and I might say as a result of that investigation that I was chairman of, over 800 people have gone to the penitentiary. . . . I think we have had 804 convictions and there has been returned to the Federal Government several millions of dollars."

(Other contrasts between the Truman and Eisenhower regimes were suggested in the HUMAN EVENTS article, "The Truman Scandals vs. The Eisenhower Scandals," by Jules Abels, June 30, 1958. The story of the FHA investigation referred to by Capehart is contained in Chapter 18 of the Abels book, *The Truman Scandals*, which may be obtained from HUMAN EVENTS for the bookstore price of $4.)

LIBRARIANS PRAISE HUMAN EVENTS

HOBSON THOMPSON, JR., Pinson Memorial Library, Sumter, S. C.: "HUMAN EVENTS, through its commentaries on varied current issues, contains valuable reference information."

A. O'HARA, Hendrik Hudson Chapter Free Library, Hudson, New York: "We feel that HUMAN EVENTS is a very worthwhile, patriotic and fact-evaluating paper. We strive to place it before our adult public."

MARVIN MELICK, Elisha D. Smith Public Library, Menasha, Wisconsin: "I have used HUMAN EVENTS with the high school people considerably, because of its discussions on pertinent events of the day."

MRS. EARLE SPENCER, Pine Bluff Public Library, Pine Bluff, Arkansas: "We like HUMAN EVENTS. 'Excellent reporting,' our patrons say."

D. WATSON, Faith Theological Seminary, Elkins Park, Philadelphia, Pennsylvania: "HUMAN EVENTS has presented us with a concise, readable picture of what goes on behind the scenes. It is an excellent news commentator for the busy, but interested, reader."

Additional copies of 4-page News Section or Article Section: single copy 20c (coins, not stamps); 10 copies $1; 25 copies $2; 100 copies $5; 500 copies $20; 1000 copies $30. In lots of 5000 $25 per thousand. Unless otherwise ordered, reprints are sent by fourth-class mail which takes ten days to two weeks for delivery. For first-class mail delivery, add one cent a copy; for airmail, add two cents a copy.

TRIAL SUBSCRIPTION to HUMAN EVENTS for new subscribers only: 5 weeks $1.

- **Yearly rate, $11; 6 months, $6; 3 months, $3.**
- **By first class mail, $13 a year; by airmail (including APO and FPO) $15 a year. FOREIGN: $14 a year; airmail, Europe, Latin America, $21 a year; airmail, Asia, Africa and Pacific, $36 a year.**
- **Bound Annual Volume for 1957, with complete index, $15. 1955 and 1956 volumes available at same price. None available for previous years.**
- **For change of address send old address (exactly as it appears on the envelope of your copy of HUMAN EVENTS) and new address (with zone number if any). Allow us 2 weeks to process new subscriptions and changes of address.**
- **The Declaration of Independence opens: "When in the course of HUMAN EVENTS . . ."**

FRANK C. HANIGHEN, *Editor and Publisher*
JAMES L. WICK, *Executive Publisher* M. STANTON EVANS, *Managing Editor*
FRANK CHODOROV, *Contributing Editor*

HUMAN EVENTS, 4C8 First St., SE, Washington 3, D. C., is a weekly newsletter reporting from Washington on politics, business, labor and taxes. It was founded in 1944 by Frank C. Hanighen. Published usually in two sections: a 4-page news section and a 4-page article section. Entered as second class matter at Washington, D. C. Copyright 1958.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Vol. XV, No. 29 HUMAN EVENTS July 21, 1958

Article Section I *Printed in Two Sections*

BEHIND THE BLACK ROBES

High Court Clerks: America's Hidden Lawmakers

By ROSALIE M. GORDON

WHEN WE VISIT the chamber of the Supreme Court of the United States, we see sitting before us, high above the audience and the disputing attorneys, nine imposing, black-robed Justices. But behind the Justices, in the inner reaches of the beautiful Supreme Court building, sit 18 young men through whose hands passes much of the work of the Court. They serve the Justices for only a year or two and then are replaced by others of their kind. During their service to the Court, we seldom see them or hear of them. But some of them have gone on to fame of a kind. Dean Acheson was one of them, and so was Alger Hiss. Another, who served Justice Frankfurter, later served a term in jail in a vote-fraud case in his native state. Many others, of course, have attained respected and useful places in the legal profession and in politics.

These bright young men are law clerks of the Justices of the Supreme Court. As of the 1957 session of the Court, seven Justices had two clerks each, Justice Douglas had one, and Chief Justice Warren had three—18 in all. They are picked by the individual Justices for whom they will work, and are taken from among the top performers of the graduates of leading law schools, generally on the recommendation of the deans.

Quite naturally, this brings up the question of how much influence these young men exercise on the Justices and what part they have played in the type of decisions we have been getting from the Court these past two decades. First of all, it is beyond belief that a Justice would choose as his law clerk a young man diametrically opposed to the Justice's views. Second, these young men are the products of schools and universities which have been thoroughly infiltrated—in some cases saturated—with left-wing thinking. Six of the 18, for instance, serving the Justices in 1957 came from the law school of Harvard and three others from Yale. Yale and (more particularly) Harvard have been hotbeds of New Deal-collectivist-left-wing teaching in recent years.

Some scraps of evidence have begun to appear, as to the nature and amount of influence wielded by the clerks. Justice Minton, after his retirement from the Court, was asked if his clerks helped in drafting opinions. He replied: "In my case, after an opinion was written I submitted it to the boys for their comments and criticisms. *And if their criticisms were valid the opinion was rewritten*" (italics added). It is important to remember that "the boys" have just graduated from law school, that they have never practiced law, and that some of them are not yet even members of the bar.

Even more impressive evidence is supplied in a biography of Chief Justice Harlan Fiske Stone by Alpheus Thomas Mason.* Stone is quoted as saying at one time: *"I am a good deal troubled by the dissenting opinion which Justice Black has just circulated . . . He states a good deal which counsel did not take the trouble to present . . . I see in Justice Black's dissent the handiwork of someone other than the nominal author."* And the same book points out that two paragraphs in a historic footnote to one of Justice Stone's own opinions were written by his law clerk. The clerk, Louis Lusky,** said Stone "adopted it almost as drafted, simply toning down a couple of overemphatic words."

IT IS IN THE selection of cases that will come before the Court for review and decision that these bright young men come into their own. Each year anywhere from 1500 to 2000 appeals are made to the Supreme Court to hear and decide cases which have been settled one way or another in the lower courts. The Supreme Court can hear and decide on fewer than ten per cent of the more than 1000 cases that ask for hearing annually. But who is to decide what cases shall be heard? The rule is that when any four justices agree to grant a petition for *certiorari*—as these appeals for hearing are known in legal jargon—the Court will hear arguments in the case and decide it. But each of these petitions involves a brief asking the Court to hear the case, another brief asking the Court not to hear it and, likely as not, a record of all the legal proceedings in the lower courts. That's where those 18 young law clerks come in. This mass of petitions is split up among them. Each clerk then writes a summary or memorandum for his Justice. This summary ostensibly states the facts of the case, the law on which the lower courts depended in deciding it, a short statement of previous cases on the same point and—finally—a recommendation by the clerk that the case be heard or not heard by the Court.

---

* *Pillar of the Law*, Viking Press.

** Lusky now serves as a volunteer lawyer for the left-wing American Civil Liberties Union, and helped to defend Carl Braden, a man convicted of sedition in Kentucky. (Braden's conviction was overturned by the Supreme Court's ruling in the *Nelson* case.)

Published weekly at 408 First Street, SE, Washington 3, D. C. • Copyright 1958 by HUMAN EVENTS, INC

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It is then up to the Justice, of course, to decide whether he will accept or reject his clerk's recommendation. But we can see how easy it would be for a young law clerk, fresh from the groves of academe, where he was filled with a burning desire to remake America into the bright new socialist mold, to let at least some of his zeal creep into his recommendation.

There is an indication of how potent this influence has been in the fact that, in late 1957, the *Harvard Law Review* found that the Warren Supreme Court was falling badly behind in its docket of cases. The thing that was causing the trouble was that the Court was agreeing to hear an unprecedented number of cases. In the 1956-57 term, for instance, it agreed to hear 208 cases. From 1948 to 1955, the figure ran from 88 to 162 cases per term. Legal experts familiar with the Court's work said it deserved no sympathy for the jam into which it had got itself. It was busy putting its "liberal" hand on a whole batch of lower court decisions on the assumption that these courts didn't know what they were doing. It would be interesting if we could have another survey of how much these bright young law clerks had to do with the High Court's determination to make the lower courts truly "inferior."

Congressman Gordon H. Scherer of Ohio, a member of the House Committee on Un-American Activities, has noted the influences under which these recent graduates had come in their college years. Congressman Scherer said:

> Our committee hearings have disclosed a considerable amount of ill-will, bordering in some cases on hatred, by many professors for Congressional investigating committees. They have determined in one way or another to destroy these committees ever since some of their clique were subpoenaed to tell about their Communist and Communist-front activities.

As a member of a Congressional investigating committee, Congressman Scherer was especially interested in reading carefully some of the Supreme Court's decisions affecting the rights of Congressional committees. He said:

> I have read in some of the recent shocking Supreme Court decisions almost the exact words, phrases and arguments that have been used by some of these professors in their attacks against the committees.

Congressman Scherer suggested that these words and phrases very well might have crept into the decisions of the learned Justices via some of those professors' former pupils, now hidden behind the bench of the highest court in the land.

THANKS TO THE enterprise of the weekly news magazine, *US News and World Report*, we have had an even more authoritative statement of the role of those bright young law clerks from one of their own number. *US News* hunted up a former law clerk to Justice Jackson—William H. Rehnquist, now with a law firm in Phoenix, Arizona. In its issue of December 13, 1957, *US News and World Report* printed the following words* from Mr. Rehnquist:

> The bias of the clerks, in my opinion, is not a random or hit-and-miss bias. From my observations of two sets of Court clerks during the 1951 and 1952 terms, the political and legal prejudices of the clerks were by no means representative of the country as a whole nor of the Court which they served.
>
> After conceding a wide diversity of opinion among the clerks themselves, and further conceding the difficulties and possible inaccuracies inherent in political cataloguing of people, it is nonetheless fair to say that the political cast of the clerks as a group was to the "left" of either the Nation or the Court.
>
> Some of the tenets of the "liberal" point of view which commanded the sympathy of a majority of the clerks I knew were: extreme solicitude for the claims of Communists and other criminal defendants, expansion of Federal power at the expense of state power, great sympathy toward any government regulation of business —in short, the political philosophy now espoused by the Court under Chief Justice Earl Warren.

But, you say, what is the Court to do? The Justices have to have clerks and they naturally choose those they think will be in sympathy with their views. Perhaps. But bear this in mind. These clerks are Government employees—although, unlike most others, they are not subject to the regular Government security or loyalty checks. Their pay ranges from $5500 to $6500 a year—paid not by the Justices themselves, but by the American taxpayer.

---

* Reprinted from *US News & World Report*, an independent weekly news magazine published at Washington. Copyright (1957) United States News Publishing Corporation.

ROSALIE M. GORDON has served for many years as research associate to John T. Flynn, and is the author of *Nine Men Against America* (Devin-Adair, $3.00). Her most recent contribution to HUMAN EVENTS was an article bearing the same title, November 16, 1957. The present article is excerpted from Chapter 19 of Miss Gordon's book.

HUMAN EVENTS was founded in 1944 by Frank C. Hanighen. It is published weekly at 408 First Street, SE, Washington 3, D.C. and reports from Washington on politics, business, labor and taxes. It is usually published in two parts: a 4-page news section and a 4-page article. $11 per year.
TRIAL SUBSCRIPTIONS, new subscribers only: 5 weeks for $1.

ORDER BLANK

HUMAN EVENTS, 408 First Street, SE, Washington 3, D. C.

Send me _____ reprints of "BEHIND THE BLACK ROBES" at $_____.

☐ Payment enclosed ☐ Bill me

Additional copies of this 4-page article: single copy 20c (coins, not stamps); 10 copies $1; 25 copies $2; 100 copies $5; 500 copies $20; 1,000 copies $30. In 5,000 lots $25 per thousand. News section sold separately—at same rates. Unless otherwise ordered, reprints are sent by fourth-class mail which takes ten days to two weeks for delivery. For first-class mail delivery, add one cent a copy, for airmail, add two cents a copy.

Enter my subscription ☐ 5 weeks for $1 ☐ 1 year for $11

Name _____

Street _____

City _____ Zone _____ State _____

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Vol. XV, No. 29 HUMAN EVENTS July 21, 1958

Article Section II *Printed in Two Sections*

ALL THE NEWS THAT FITS

A Racing Fan Compares Newspapers

By HANDICAPPER

SOME RACING FANS, as we followers of the Sport of Kings are known to the radio audience, are so sensitive to public opinion that they read their *Morning Telegraph* behind *The New York Times* (which bears the proud motto, "All the news that's fit to print"), the way kids used to read Nick Carter in school under the protection of a geography book. Of course the *Times* is a great organ of news and opinion, but it has days when I'd hate to be seen reading it except behind the *Morning Telegraph* or the *Racing Form*.

A learned discussion of the relative merits of Bold Ruler and Gallant Man is nothing to blush about if some kibitzer happens to be reading over your shoulder. But when, in the *Times'* obituary of Elmer Davis, I came upon the statement that Davis knew that "the greatest internal menace to the United States was not communism, as the Wisconsin Republican [McCarthy] maintained, but the steady encroachment on freedom of thought," I shuddered. If Davis really believed such nonsense, the *Times* should either have omitted mention of it under the time-honored principle of "*de mortuis, nihil nisi bonum,*" or the story should have pointed out, charitably and parenthetically, that service in the OWI (the World War II "Office of War Information," of which Davis was the head) produced weird psychic symptoms in a lot of people.

That kind of thing always drives me back to the *Telegraph*, in the columns of which past performances are realistically set down so that the "racing fan" knows at least what he has a legitimate right to expect. You don't find things fouled up like the subjoined paragraph from a column in the *Times* by James (Scotty) Reston:

"In personal terms we nominate for oblivion—Senator William E. Jenner of Indiana and all other self-appointed detractors of the Supreme Court."

Probably that was a fairly trivial reason to split a blood vessel, no more serious than having a favorite dead-heated at three to five. But if I'd stuck to the form sheets and abjured the press, I should never have come upon another item, also from the *Times*. The offense occurred in an account by Homer Bigart of the supposedly dilatory conduct of the State Department in admitting aliens and refugees under the amended immigration laws. Bigart quotes one critic of the refugee program as applied to Yugoslavia, as follows:

> **"The top-level argument in Washington is that we are spending millions of dollars building up the Yugoslav army. Many refugees from Yugoslavia are of military age, so the argument runs that we are weakening the Yugoslav army by aiding the refugee-escapees."**

IF OUR ENTERPRISING journalists weren't so busy consigning Bill Jenner, *et al.*, to oblivion, some of them might well chase down this story to determine who, if anybody, in the State Department has been making such a cockeyed "top-level argument" as that. We can't admit refugees from communism because we are spending millions of dollars to support Communist armies; and it wouldn't be cricket to encourage even unwilling soldiers to desert from armies whose expenses we are paying! When you stop to think of it, though, the "top-level argument" does make perverse sense. Certainly it isn't prudent to damage something we are paying for!

In view of all the State Department says on the other side of its mouth about fighting communism, you'd think somebody would suggest that we stop paying for Yugoslavia's Communist army and admit Yugoslavia's anti-Communist refugees. The Administration's determination to persist in military aid to Tito reminds me of the kind of racing fan who bets on a loser seven straight times on the theory that "he's gotta win sometime." That variety of sportsman will stick to his hunch even if the trainer advises "lay off" as plainly as Tito has told the US that, in spite of all the billions we've handed him, he isn't bought yet. But what burns me up is that, while that idiotic horse punter is throwing away his own two dollars, the aid-Tito boys are throwing away mine!

It would be wrong to assume from all this that the *Morning Telegraph* and *Racing Form* should be classed as escape literature. Both contain brief summaries of general news which can be read easily between heats. But one's researches into the relative merits of a field of $3500 selling platers are not confused by Walter Lippmann's latest gimmick in the anti-Dulles campaign (the Secretary of State is "overworked"); or by protracted accounts of the visits

Published weekly at 408 First Street, SE, Washington 3, D. C. • Copyright 1958 by HUMAN EVENTS, INC.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of high school tourists in Washington to the Soviet embassy. According to *The New York Times*, "at the height of the Spring deluge as many as 100 students a day were ringing the bell of the embassy." Apparently high school current events classes are not informed that Ambassador Menshikov, the jolly diplomat, was formerly top man in the Soviet timber trust, the largest employer of slave labor in the world.

Reading, according to Francis Bacon, "maketh a full man," but the great philosopher, being unfamiliar with modern journalism, didn't specify what the reader might be full of. Sometimes it looks as if the fullness of the readers was less a menace than the emptiness of the writers. Some time ago Marquis Childs did a piece for the New York Socialist weekly, New Leader, *under the title, "The Future of American Hate." The idea was that, now since the death of McCarthy, whom Childs kissed off as "a brilliant and resourceful demagogue" whose anticommunism "lacked any conviction or genuine drive," the "hate" forces are momentarily disorganized but may make a comeback.*

Racing paper readers, who probably assume that Marquis Childs is some foreigner of noble blood like the Marquis of Calabash, went unterrified through the "McCarthy Era," ignorant of the fact that the late Senator Joe "was capable of wholesale destruction, undermining the basic safeguards of a stable society," or that he actually was "able to break down sanctions and safeguards guaranteeing the rights of the individual by due process of law."

If the American people learned nothing from their narrow escape from "McCarthyism," it could be because all they remember about it is that a few Communists and near-Communists hollered for help, and various officials, who were considerably less than frank as to how the Reds managed to invade the citadel, felt uncomfortable. But the real revelation from the McCarthy experience concerns the degree to which right-thinking people, in the Administration and out, rallied round to protect Communists and fellow travelers. Joe's crime was that now and then he got too close to where the Kremlin's bodies were buried. His failing was that he never quite understood the power and determination of the forces arrayed against him.

Not content with picking up all the marbles, the pro-Socialist "liberals" now find it necessary to build up McCarthy as an evil genius who tried to be a Hitler but didn't have the brains for it; and McCarthyism as a dark age during which "freedom" escaped, by the skin of its teeth, only because of the heroic sacrifices of a handful of dedicated Senators and intrepid newspaper and radio commentators. It makes a wonderful story for young people who weren't around at the time or remember McCarthy mostly because those hearings prevented their listening to more exciting TV shows. A skeptical older generation will prefer to rely on its own recollection, at any rate until Ed Murrow, or another, comes up with "McCarthy's Thumbscrew Men Couldn't Silence Me," in eight installments.

IN THE MEANTIME, the race papers provide relief for us dumb eggs who can't understand why a Senator gets to be a fascist beast by asking in a loud voice how come a Communist dentist in the US Army got promoted. Such light reading is also a change from newspapers which invariably describe Dr. Linus Pauling as a double-domed scientist and Nobel Prize winner, but omit to mention the number of pro-Communist outfits he has fronted for.

However, I'm glad I was reading the Boston newspapers the day the *Herald* printed its counsel's reply to a demand by Chairman Harris of the House Communications Committee that the *Herald* hand over a lot of records relating to the newspaper's acquisition of radio station WHDH. The *Herald's* lawyers declined on the ground that the committee had not made clear the legislative purpose of its investigation. Remember the *Watkins* decision in which the Supreme Court turned a left-wing character loose on the ground that the questions asked him were not definitely related to a legislative purpose?

It's going to be hard to wait for this Boston case to get up to the Supreme Court, just to see whether a newspaper with important Modern Republican friends has as many civil rights as a left-wing labor politician. When that decision comes down, that's one day the horse papers will have to wait!

"HANDICAPPER" is an editor of one of America's largest circulation publications. His most recent contribution to HUMAN EVENTS was "Help for the Chronic Appeaser," March 24, 1958.

HUMAN EVENTS was founded in 1944 by Frank C. Hanighen. It is published weekly at 408 First Street, SE, Washington 3, D.C. and reports from Washington on politics, business, labor and taxes. It is usually published in two parts: a 4-page news section and a 4-page article. $11 per year.
TRIAL SUBSCRIPTIONS, new subscribers only: 5 weeks for $1.

ORDER BLANK

HUMAN EVENTS, 408 First Street, SE, Washington 3, D. C.

Send me _____ reprints of "ALL THE NEWS THAT FITS" at $_____.

☐ Payment enclosed ☐ Bill me

Additional copies of this 4-page article: single copy 20c (coins, not stamps); 10 copies $1; 25 copies $2; 100 copies $5; 500 copies $20; 1,000 copies $30. In 5,000 lots $25 per thousand. News section sold separately—at same rates. Unless otherwise ordered, reprints are sent by fourth-class mail which takes ten days to two weeks for delivery. For first-class mail delivery, add one cent a copy, for airmail, add two cents a copy.

Enter my subscription ☐ 5 weeks for $1 ☐ 1 year for $11

Name _____

Street _____

City _____ Zone _____ State _____

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED